

FEB 15 2005

Law Offices of

Date FEBRUARY 15, 2005

R. REAMS GOODLOE, P.S.Intellectual Property Law, including
Patents, Trademarks, & Copyrights

Number of pages including cover sheet 26

E-Mail: GoodPatent@compuserve.com

TO:

COMMISSIONER FOR
PATENTS
GROUP 1700
P.O. BOX 1450
ALEXANDRIA, VA
22313-1450FROM: R. Reams Goodloe, Jr.
R. REAMS GOODLOE, P.S.
NOTE: Suite 102
NEW 24722 - 104th Avenue, S.E.
ADDRESS! KENT, Washington
98030-5322

Re:

US SERIAL NO.
09/243,237

Phone: 253-859-9128

CENTRALIZED FAX NO.
703 872-9306

Fax: 253-859-8915

DK. No. MD0-2471-U-D1

NOTE: NEW AREA CODE FOR
PHONE/ FAX NUMBERS

REMARKS:



Urgent



For your review



Reply ASAP



Please Comment

****REQUEST FOR WITHDRAWAL OF ABANDONMENT****

U.S. Patent Application No.: 09/243,237

Title: HIGH PURITY WATER PRODUCED BY REVERSE OSMOSIS

U.S. Application Filing Date: February 2, 1999

Inventor: Mukhopadhyay, D.

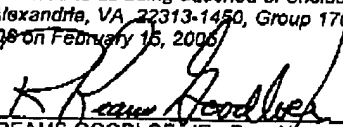
Please find the following documents transmitted herewith:

- (1) Transmittal Form;
- (2) Request for Withdrawal of Abandonment with attachments;
- (3) Statement of Rhonda Goodloe executed on February 15, 2005; and
- (4) Certificate of Facsimile Transmission.

--R. REAMS GOODLOE, JR. --

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) are being facsimile transmitted to the COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, VA 22313-1450, Group 1700. (Group Art Unit 1723), Examiner Ana M. Fortuna, at Centralized Facsimile No.: 703-872-9306 on February 15, 2005.


R. REAMS GOODLOE, JR. Reg. No. 32,466.

Please type a plus sign (+) inside this box

+

+

PTO/SB/21 (8-00)

Approved for use through 10/31/2002. OMB 0651-0031
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

TRANSMITTAL FORM	Application Number	09/243,237
	Confirmation Number	2221
	Filing Date	February 2, 1999
	First Named Inventor	MUKHOPADHYAY, D.
	Group Art Unit	1723
	Examiner Name	FORTUNA, A.
No. Pages in this submission	Attorney Docket No.	MD0-2471-U-D1
ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached	<input type="checkbox"/> Assignment Papers (for an application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Amendment/Response After Final <input type="checkbox"/> Affidavits/Declaration	<input type="checkbox"/> Drawing(s) FORMAL <input type="checkbox"/> Licensing - related papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Extension of Time Requests	<input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to Provisional Application	<input type="checkbox"/> Appeal Communication to Group <input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement (Form SB08 with disclosed art)	<input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Additional Enclosures identify below:
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Small Entity Stmt.	*Request for Withdrawal of Abandonment *Attachments - Copy of Request for Oral Hearing mailed 12/22/03; cancelled check #5008; Appellant's reply Brief to Examiner's Answer mailed 12/22/03; return postcard; copy of Express mail: Label ER726555956US; US Postal Office's Track and Confirm Report; Office Actions mailed 02/10/05 and 10/22/03; Statement of Rhonda Goodloe.
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Return Receipt Card Remarks	
Firm or Individual Name	R. Reams Goodloe, Jr. Reg. No.: 32,466	
Signature	<i>R. Reams Goodloe, Jr.</i>	
Date	February 15, 2005	
CERTIFICATE OF FACSIMILE TRANSMISSION		
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) are being facsimile transmitted to the COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, VA 22313-1450, Group 1700, (Group Art Unit 1723), Examiner Ana M. Fortuna, at Centralized Facsimile No. 703-872-9306 on February 15, 2005.		
Typed or printed name:	R. REAMS GOODLOE, JR.	
Signature	<i>R. Reams Goodloe, Jr.</i>	Date 02/15/05

REQUEST FOR WITHDRAWAL OF ABANDONMENT

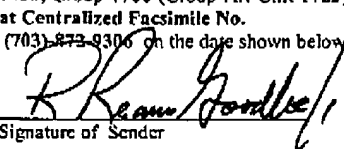
Attorney Docket No.: MD0-2471-U-D1

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CERTIFICATE OF FACSIMILE TRANSMISSION

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(703)-873-9306 on the date shown below.


Signature of Sender

R. Reams Goodloe, Jr.

Print Name

Date: February 15, 2005

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Confirmation No.: 2221)
Appellant: MUKHOPADHYAY, Debasish)
Serial No.: 09/243,237)
Filed: 02/02/99)
Title: HIGH PURITY WATER PRODUCED)
BY REVERSE OSMOSIS)
Examiner: Ana M. Fortuna)
Art Unit: 1723)

COMMISSIONER FOR PATENTS
Box 1450
ALEXANDRIA, VA 22313-1450

REQUEST FOR WITHDRAWAL OF ABANDONMENT

1. The applicant requests that the abandonment of this case be withdrawn.

REQUEST FOR WITHDRAWAL OF ABANDONMENT
Attorney Docket No.: MD0-2471-U-D1

2. More specifically, the applicant requests that the abandonment set forth in the Notice of Abandonment mailed by the Patent Office on February 10, 2005 **be withdrawn**. The Examiner indicates in her Notice of Abandonment mailed February 10, 2005, that the application is abandoned in view of the applicant's failure to timely file a proper reply to the Office letter mailed on "23 October 2002." That date as stated by the Examiner, is believed to be incorrect. The Office Action had a mailing date of 23 October 2003. Attached to this Request is a copy of the face sheet and first page of the Office Action mailed 23 October 2003 evidencing the mailing date of 23 October 2003.

PROMPTNESS OF THIS SUBMISSION

3. This information is being submitted promptly after the applicant has learned of the abandonment, on the basis of (a) applicant's own procedures, noting on February 11, 2005 via review on PAIR that the case had been abandoned; and (b) receipt of the Notice of Abandonment mailed by the Patent Office on February 10, 2005.

SUBMISSION

4. Submitted herewith is:

- ☒ a copy of the Appellant's Reply Brief to Examiner's Answer mailed on December 22, 2003 showing a Certificate of Mailing by **Express Mail, Label ER726555956US** executed on December 22, 2003.
- ☒ a copy of the Request for Oral Hearing with required fee of \$290.00 (our check # 5008), and accompanying transmittals, mailed on December 22, 2003 showing a Certificate of Mailing by **Express Mail, Label ER726555956US** executed on December 22, 2003.
- ☒ a copy of the United States Postal Service's Track and Confirm Report noting that the package bearing Express Mail Label **ER726555956US** was delivered on December 24, 2003 at 12:19 p.m. in Alexandria, VA 22313.

REQUEST FOR WITHDRAWAL OF ABANDONMENT

Attorney Docket No.: MD0-2471-U-D1

- ☒ a copy of the U.S. Post Office Express Mail, Label ER726555956US showing date in of December 22, 2003.
- ☒ a copy of the return receipt post card identifying the papers filed and showing the U.S.P.T.O receipt stamp dated December 22, 2003.
- ☒ a copy of the cancelled check #5008 referring to the Request for Oral Hearing identified above.
- ☒ a copy of the first page of the Examiner's Answer mailed October 22, 2003.
- ☒ a copy of the Patent Office Communication, Notice of Abandonment mailed February 10, 2005.

STATEMENT

5. Attached hereto is a Statement attesting to the timely transmission of the correspondence referred to above, based on personal knowledge.

6. Please proceed with further examination of this application on the basis of:

- ☒ the original papers filed, which have now reached the appropriate area of the Patent and Trademark Office, if available.

AND/OR

- ☒ The attached copy of the papers originally filed.

FEE PAYMENT

- ☒ No fee is required for this Request.

FEE DEFICIENCY

- ☒ If any fee is required, authorization is given to charge Account No. 07-1613.

REQUEST FOR WITHDRAWAL OF ABANDONMENT
Attorney Docket No.: MD0-2471-U-D1

REQUEST FOR WITHDRAWAL OF ABANDONMENT

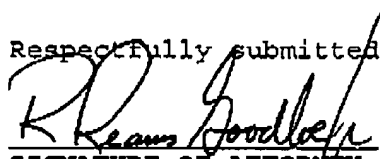
7. Acknowledgement of the active status of this application is respectfully requested.

Date: February 15, 2005

Phone: 253-859-9128
Fax: 253-859-8915

CUSTOMER NO.: 20793

Respectfully submitted,


SIGNATURE OF ATTORNEY

R. Reams Goodloe, Jr.
Reg. No. 32,466
24722-104th Avenue, S.E.
Suite 102
Kent, Washington
98030-5322

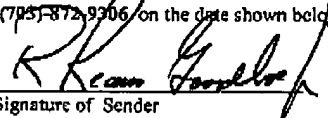
STATEMENT ATTESTING TO TIMELY TRANSMISSION
OF PTO CORRESPONDENCE

Attorney Docket No. MD0-2471-U-D1

CERTIFICATE OF FACSIMILE TRANSMISSION

RECEIVED
CENTRAL FAX CENTER
FEB 15 2005

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via facsimile to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, Group 1700 (Group Art Unit 1723), Examiner Ana M. Fortuna at Centralized Facsimile No. (703) 872-9306 on the date shown below.


 Signature of Sender

R. Reams Goodloe, Jr.
 Print Name
 Date: February 15, 2005

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Confirmation No.:	2221)
Appellant:	MUKHOPADHYAY, Debasish)
Serial No.:	09/243,237)
Filed:	02/02/99)
Title:	HIGH PURITY WATER PRODUCED BY REVERSE OSMOSIS)
Examiner:	Ana M. Fortuna)
Art Unit:	1723)

COMMISSIONER FOR PATENTS
 Box 1450
 ALEXANDRIA, VA 22313-1450

I. STATEMENT ATTESTING TO TIMELY TRANSMISSION OF PTO
CORRESPONDENCE UNDER 37 C.F.R. § 1.10

1. I state that on December 22, 2003, I deposited by express mail, express mail label ER726555956US, the following correspondence to the Office Board of Patent Appeals and

STATEMENT ATTESTING TO TIMELY TRANSMISSION
OF PTO CORRESPONDENCE


Attorney Docket No. MD0-2471-U-D1

Interferences, Commissioner for Patents, P.O. Box 1450,
Alexandria, VA 22313-1450:

- ☒ The Appellant's Reply Brief to Examiner's Answer mailed on December 22, 2003 showing a Certificate of Mailing by Express Mail, Label ER726555956US executed on December 22, 2003. A true copy of the same follows.
- ☒ The Request for Oral Hearing with required fee of \$290.00 (our check # 5008), and accompanying transmittals, mailed on December 22, 2003 showing a Certificate of Mailing by Express Mail, Label ER726555956US executed on December 22, 2003. A true copy of the same follows.
- 2. Attached is a true copy of the United States Postal Service's Track and Confirm Report noting that the package bearing Express Mail Label ER726555956US was delivered on December 24, 2003 at 12:19 p.m. in Alexandria, VA 22313.
- 3. Attached is a true copy of the U.S. Post Office Express Mail, Label ER726555956US showing date in of December 22, 2003.
- 4. Attached is copy of the return receipt post card identifying the papers filed and showing the U.S.P.T.O receipt stamp dated December 22, 2003.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: February 15, 2005


Rhonda Goodloe

USPS - Track & Confirm

Page 1 of 1



Track & Confirm

Current Status

You entered ER72 6555 956U S

Your item was delivered on December 24, 2003 at 12:19pm in ALEXANDRIA, VA 22313. The item was signed for by M BOSTON. Additional information for this item is stored in files offline.

Notification Options

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Restoration Options

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EXPRESS MAIL
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ER 726555436 US

ORIGIN (POSTAL USE ONLY)			DELIVERY (POSTAL USE ONLY)		
PO ZIP Code 98001	Day of Delivery <input type="checkbox"/> Mon <input checked="" type="checkbox"/> Tue <input type="checkbox"/> Wed <input type="checkbox"/> Thu <input type="checkbox"/> Fri <input type="checkbox"/> Sat <input type="checkbox"/> Sun	Flat Rate Envelope <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Delivery Attempt No. Day	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Date of Mailing 1/27/05	Postage \$15.65	Return Receipt Fee \$2.80	Delivery Address No. Day	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
Time of Mailing 3:00 PM	Military <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Weight 3.6 lbs	Delivery Date 1/27/05	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Employee Signature
No Delivery <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Acceptance Clerk Initials G	Total Package A Fee \$15.65	CUSTOMER USE ONLY		
FROM: PLEASE PRINT R. REAMS GOODLOE, JR. 24722 104th Avenue S.E. Suite 102 Kent, Washington 98030-5322			TO: PLEASE PRINT PATENT BOARD OF APPEALS AND INTERFERENCES COMMISSIONER FOR PATENTS P.O. BOX 1450 ALEXANDRIA, VA		

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+

PTO/SB/21 (8-00)

Approved for use through 10/31/2004. OMB 0651-0031
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

TRANSMITTAL FORM	Application Number	09/243,237
	Confirmation Number	2221
	Filing Date	February 2, 1999
	First Named Inventor	MUKHOPADHYAY, D.
	Group Art Unit	1723
	Examiner Name	FORTUNA, A.
No. Pages in this submission 9	Attorney Docket No.	MD0-2471-U-D1
ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Assignment Papers (for an application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Amendment/Response After Final <input type="checkbox"/> Affidavits/Declaration	<input type="checkbox"/> Drawing(s) FORMAL <input type="checkbox"/> Licensing - related papers	<input checked="" type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Extension of Time Requests (5 months)	<input type="checkbox"/> Petition Petition to Convert to Provisional Application	<input type="checkbox"/> Appeal Communication to Group <input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement (Form SB08 with disclosed art)	<input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer	<input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Additional Enclosures identify below:
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Small Entity Stmt.	* REQUEST FOR ORAL HEARING * APPELLANT'S REPLY BRIEF TO EXAMINER'S ANSWER
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input checked="" type="checkbox"/> Return Receipt Card <input type="checkbox"/> Remarks	
Firm or Individual Name	R. Reams Goodloe, Jr. Reg. No.: 32,466	
Signature	<i>R. Reams Goodloe</i>	
Date	December 22, 2003	
CERTIFICATE OF MAILING		
I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as First-Class Mail [express mail label ER726555956US in an envelope addressed to Board of Patent Appeals and Interferences, U.S. Patent and Trademark Office, Alexandria, VA 22313-1450 on this date:		
Typed or printed name:	RHONDA GOODLOE	
Signature	<i>Rhonda Goodloe</i>	Date 12/22/03

(Transmittal Form for Correspondence after Initial Filing (PTO/SB/21 [9-19.1] - page 1 of 1)

COPY

PTO/SB/17 (10/03)

Approved for use through 07/31/2005. OMB 0651-0032
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL
for FY 2004

Patent fees are subject to annual revision

Complete if Known

Application Number	09/243,237	Confirmation No.:	2221
Filing Date	February 2, 1999		
First Named Inventor	MUKHOPADHYAY, Deb		
Examiner Name	FORTUNA, A.		
Group / Art Unit	1723		
Attorney Docket No.	MD0-2471-U-D1		

TOTAL AMOUNT OF PAYMENT (\$) **\$290.00****METHOD OF PAYMENT (check one)**

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:
- Deposit Account Number: 07-1813
- Deposit Account Name: R. Reams Goodloe, P.S.
- ☒ Charge Any Additional Fee Required Under 37 C.F.R. §§ 1.16 and 1.17 ☒ Applicant claims **LARGE** entity status

2. ☒ Payment Enclosed:
- ☒ Check ☐ Money Order ☐ Other

FEE CALCULATION**1. BASIC FILING FEE**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1) (\$)			

2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	-20**	X	
Multiple Dependent Claims	-3**	X	

**or number previously paid, if greater; For Reissues, see below

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 88	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 88	2204 43	Reissue independent claims over original patent
1205 18	2205 9	Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number prev. paid, if greater

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 60	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexam.	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1261 110	2251 55	Extension for reply within first month	
1262 420	2252 210	Extension for reply within second month	
1263 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	
1403 280	2403 145	Request for oral hearing	290.00
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 840	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1808 180	1808 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	

Other fee (specify)

* Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) **290.00****SUBMITTED BY**

Typed or Printed Name	R. Reams Goodloe, Jr.	Reg. Number	32,488
Signature		Deposit Account	4035
Date	12/22/03	User ID	

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. 1450, Alexandria, VA 22313-1450 EXPRESS MAIL LABEL NO.: ER726555958US.

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R. REAMS GOODLOE PS
24728 104TH AVE SE STE 102
KENT, WA 98035

6008

PAY TO THE ORDER OF Commissioner for Patents DATE DEC 22 2003

\$290.00

Bank of America

10050008 1-1-50000024 50357 318

10050008 1-1-50000024 50357 318

Attorney Docket: MD0-2471-U-D1
Confirm. No.: 2221 Applicant: MUKHOPADHYAY, Deb
Serial No.: 09/243,237 Filed: 02/02/99
Title: HIGH PURITY WATER PRODUCED
BY REVERSE OSMOSIS

Enclosures: Check - \$290.00

- * Fee Transmittal Form
- * Request for Oral Hearing
- * Appellant's Reply Brief to Examiner's Answer
- * Certificate of Express Mail, Label: ER726555956US
- * Return Receipt Postcard

Attn: BOARD OF PATENT APPEALS AND
INTERFERENCES
Commissioner for Patents, Alexandria, VA 22313-1450
Please acknowledge the receipt of the above by applying
the OFFICIAL PATENT OFFICE date stamp on this card
and mailing it. R. Reams Goodloe, Jr.
Date Mailed: December 22, 2003

ER726555956US

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APPELLANT'S REPLY BRIEF TO EXAMINER'S ANSWER (37 C.F.R. § 1.193)
Attorney Docket No.: MD0-2471-U-DI

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CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below in an envelope as "Express Mail Post Office to Addressee" mailing Label Number ER726555956US addressed to:
Board of Patent Appeals and Interferences,
Commissioner for Patents
Alexandria, VA 22313-1450
Rhonda Goodloe
Signature of Depositor
Rhonda Goodloe
Print Name of Depositor
Date: December 22, 2003

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: MUKHOPADHYAY, Debasish)
Serial No.: 09/243,237)
Filed: 02/02/99)
Title: HIGH PURITY WATER PRODUCED)
BY REVERSE OSMOSIS)

BOARD OF PATENT APPEALS AND INTERFERENCES
COMMISSIONER FOR PATENTS
Box 1450
ALEXANDRIA, VA 22313-1450

COPY

APPELLANT'S REPLY BRIEF TO EXAMINER'S ANSWER
(37 C.F.R. § 1.193 (b)(1))

This Reply Brief is in response to the Examiner's
Answer mailed October 22, 2003.

APPELLANT'S REPLY BRIEF TO EXAMINER'S ANSWER (37 C.F.R. § 1.193)
Attorney Docket No.: MD0-2471-U-D1

REPLY BRIEF

Appellant has no further comment with respect to items (1) through (9) of the Examiner's Answer mailed October 22, 2003.

With respect to items (10) entitled "Grounds for Rejection" and item (11) entitled "Response to Argument", the Appellant must note that in the Examiner's Answer, the Examiner has now cited and argued In re Thorpe, 777 F.2d 695 (Fed. Cir. 1985), which decision was not cited by the Examiner in the prior Office Action (Paper 18) dated June 11, 2002, nor was it attached to that paper or otherwise received by the Applicant (although perhaps provision of the same to the Appellant was intended by the Examiner, as recognized by the Appellant's undersigned counsel upon review of lines 5-6 on page 6 of that Office Action after recent receipt of the Examiner's Answer).

Nonetheless, it is recognized that the In re Thorpe case was noted in the Appellant's Brief as a decision that has outlived its usefulness in situations such as the instant patent application. Thus, the Board is respectfully requested to carefully consider the arguments set forth in the Appellant's Brief with respect thereto, as well as the additional comments in this Reply Brief.

In re Thorpe was decided by the Court of Appeals for the Federal Circuit at a time when legislation was pending to provide to owners of US Patents the ability to stop sales in the United States of products which were made outside of the US by a process patented in the US. Such legislation has subsequently become law. Now, owners of US process patents can attack infringers, i.e., users of a product,

COPY

APPELLANT'S REPLY BRIEF TO EXAMINER'S ANSWER (37 C.F.R. 5.1193)
Attorney Docket No.: MD0-2471-U-D1

under 35 U.S.C. Section 271(g) if the product was made abroad.

However, there remains no direct remedy against those buying, using, or selling the product if the product is made in the US, its territories or possessions. Thus, the US patent owner does not have protection against US domiciled user of a product made by a patented process that is equal to the protection afforded against users of product made by a patented process when the product is made abroad. This is an unfair and egregious situation that calls for a rethinking of whether or not all of the limitations in a patent claim actually mean what they say, or, whether such process limitations as set forth in a "product-by-process" claim to define a product made by a claimed process are of no import if the final end product is not sufficiently distinguishable in each and every possible circumstance from similar products made by other prior art processes.

As mentioned earlier in the Applicant's Brief, the burden of showing that a water sample made by the claimed process (which process was patented in the parent case) becomes virtually impossible since the water chemistry variables are unique to almost every individual plant location for treating a feedwater stream. In other words, while for a particular location the use of detailed analytical chemical analysis can be performed and results evaluated to determine whether a given feedwater stream was treated by the claimed process or another process, the end product result will be different for other locations, and thus, it is impractical to define a specific set of "universal" characteristics that each and every product water stream will have if treated by the claimed process. Such a showing is an impossible burden for the appellant herein, as it might well be for other similar cases.

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APPELLANT'S REPLY BRIEF TO EXAMINER'S ANSWER (37 C.F.R. § 1.193)
Attorney Docket No.: MD0-2471-UD1

In Atlantic Thermoplastics Co. Inc. et al. v. Faytex Corporation, 970 F.2d 834 (Fed. Cir 1992), affirmed, 974 F.2d 1299 (Fed. Cir. 1992), the Federal Circuit (citing In re Thorpe) indicated that the claimed process defines and limits product-by-process claims. The examiner cannot now fail to give life and meaning to such process limitations. Clearly, in this case, the stated limitations distinguish the claimed product over the prior art of record.

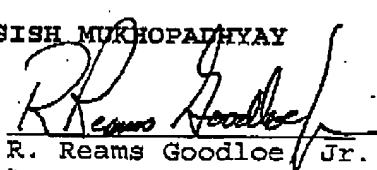
SUMMARY

For the foregoing reasons, it is submitted that the Examiner's rejections of pending claims 37-62 were erroneous, and consequently, reversal of her decision is in order and is thus respectfully requested.

Signed at Kent, County of King, State of Washington, this 22 day of December, 2003.

DEBASISH MUKHOPADHYAY

By:


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REQUEST FOR ORAL HEARING
 Attorney Docket No.: MD0-247L-U-DI

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CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below in an envelope as "Express Mail Post Office to Addressee" mailing Label Number **ER726555956US** addressed to:

Board of Patent Appeals and Interferences
 Commissioner for Patents

Alexandria, VA 22313-1450

Rhonda Goodloe
 Signature of Depositor

Rhonda Goodloe

Print Name of Depositor

Date: December 22, 2003

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: MUKHOPADHYAY, Debasish)
 Serial No.: 09/243,237)
 Filed: 02/02/99)
 Title: HIGH PURITY WATER PRODUCED)
 BY REVERSE OSMOSIS)

COPY

BOARD OF PATENT APPEALS AND INTERFERENCES
COMMISSIONER FOR PATENTS
 Box 1450
 ALEXANDRIA, VA 22313-1450

REQUEST FOR ORAL HEARING
 (37 C.F.R. § 1.194(b))

1. REQUEST FOR ORAL HEARING

Applicant hereby requests an Oral Hearing of the Appeal in this application.

REQUEST FOR ORAL HEARING
Attorney Docket No.: MD0-2471-U-D1

2. TERM FOR REQUEST

The Examiner's Answer was mailed on October 22, 2003 and the term for filing the request is two months from that date.
(37 C.F.R. § 1.194(b)).

3. STATUS OF APPLICANT

This application is on behalf of

- ☒ other than a small entity.
☐ a small entity.
A statement:
☐ is attached.
☐ has already been filed.

4. FEE FOR REQUEST FOR ORAL HEARING

Pursuant to 37 C.F.R. § 1.17(d), the fee for filing the Request for Oral Hearing is:

- ☐ \$145.00 (small entity)
☒ \$290.00 (other than small entity)

Fee Due: \$290.00

5. TOTAL FEE DUE

The total fee due is:

- ☐ Request for Oral Hearing Fee: \$290.00.

6. FEE PAYMENT

- ☒ Attached is a check in the sum of \$290.00.
☐ Charge Account No. 07-1613 the sum of \$_____.
☐ A duplicate copy of this transmittal is attached.

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REQUEST FOR ORAL HEARING
Attorney Docket No.: MD0-2471-U-D1

7. FEE DEFICIENCY

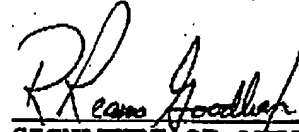
☒ If any additional fee required, charge
Account No. 07-1613

Date: December 22, 2003

Phone: 253-859-9128

Fax: 253-859-8915

Customer No. 20793

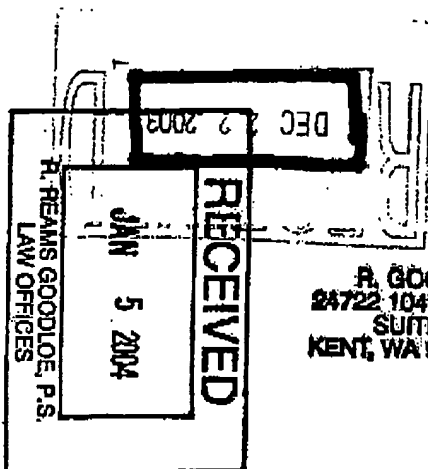


SIGNATURE OF ATTORNEY

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Attorney Docket: MD0-2471-U-D1
Confirm. No.: 2221 Applicant: MUKHOPADHYAY, Deb
Serial No.: 09/243,237 Filed: 02/02/99
Title: HIGH PURITY WATER PRODUCED
BY REVERSE OSMOSIS

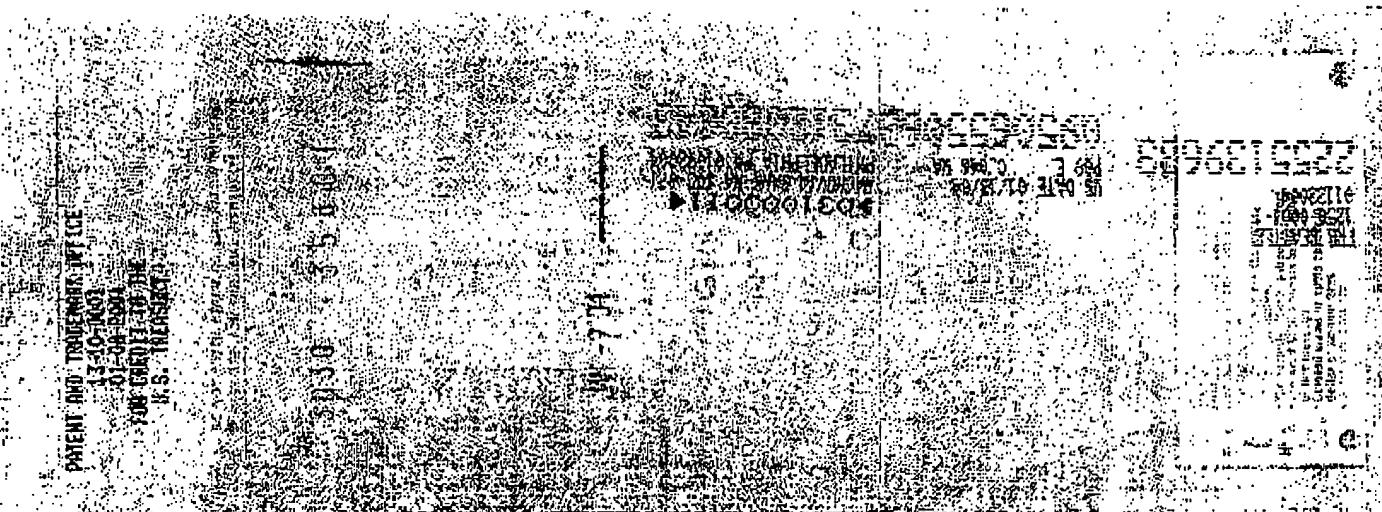
Enclosures: Check - \$290.00

- * Fee Transmittal Form
- * Request for Oral Hearing
- * Appellant's Reply Brief to Examiner's Answer
- * Certificate of Express Mail, Label: ER726555950US
- * Return Receipt Postcard

Attn: BOARD OF PATENT APPEALS AND
INTERFERENCES

Commissioner for Patents, Alexandria, VA 22313-1450
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and mailing it. R. Reams Goodloe, Jr.
Date Mailed: December 22, 2003

POOLED IOLTA FOR LSW R. REAMS GOODLOE PS 24722 104TH AVE. SE STE. 102 KENT, WA 98030		5008
DATE <u>DEC 22, 2003</u>		12-1/1250 WA 34500
PAY TO THE ORDER OF <u>Commissioner for Patents</u>		\$ <u>290.00</u>
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Bank of America Keok East 03-4900 Washington 92726555936US FOR <u>CA/293237</u>		<u>Thonda Goodloe</u> Treasurer 00000029000
⑈005008⑈ ⑆25000024⑆ 50357 318⑈		



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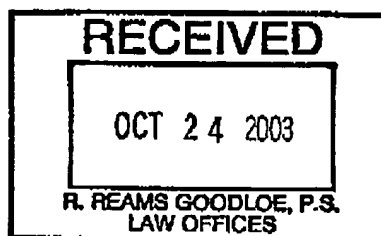
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/243,237	02/02/1999	DEBASISH MUKHOPADHYAY	MDO-2471-D1	2221
20793	7590	10/22/2003		
R REAMS GOODLOE, JR. & R. REAMS GOODLOE, P.S. 24722 104TH. AVENUE S.E. SUITE 102 KENT, WA 98030-5322				
			EXAMINER FORTUNA, ANA M	
			ART UNIT	PAPER NUMBER

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 22 (20031016)

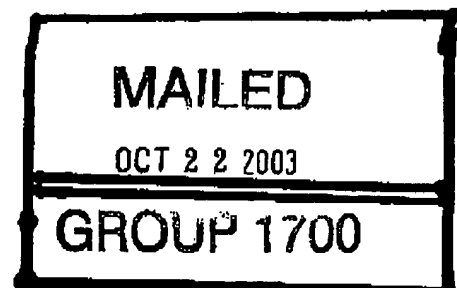
Application Number: 09/243,237
Filing Date: February 02, 1999
Appellant(s): MUKHOPADHYAY, DEBASISH

DEBASISH MUKHOPADHYAY

For Appellant

EXAMINER'S ANSWER

COPY



This is in response to the appeal brief filed 7/04/03.



UNITED STATES PATENT AND TRADEMARK OFFICE

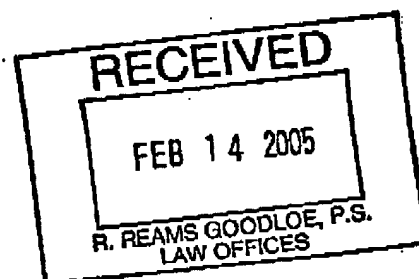
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APPLICATION NO.	FILED DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/243,237	02/02/1999	DEBASISH MUKHOPADHYAY	MDO-2471-D1	2221
20799	75941	02/10/2005		
R REAMS GOODLOE, JR. & R. REAMS GOODLOE, P.S. 24722 104TH AVENUE S.E. SUITE 102 KENT, WA 98030-5322				
			EXAMINER	
			FORTUNA, ANA M	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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FEB 15 2005


Notice of Abandonment	Application No.	Applicant(s)	
	09/243,237	MUKHOPADHYAY, DEBASISH	
	Examiner	Art Unit	
	Ana M Fortuna	1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

50 23 OCT 03

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 23 October 2002.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:


 Ana M Fortuna
 Primary Examiner
 Art Unit: 1723

2/03/05

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

U.S. Patent and Trademark Office
PTOL-1432 (Rev. 04-01)

Notice of Abandonment

Part of Paper No. 20040103